

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES ACT OF 1933**  
**Release No. 11185 / May 16, 2023**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-21422**

**In the Matter of**

**LIVEWIRE ERGOGENICS,  
INC.,**

**Respondent.**

**ORDER INSTITUTING CEASE-AND-  
DESIST PROCEEDINGS PURSUANT TO  
SECTION 8A OF THE SECURITIES ACT  
OF 1933, MAKING FINDINGS, AND  
IMPOSING A CEASE-AND-DESIST  
ORDER**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) against LiveWire Ergogenics, Inc. (“LiveWire” or “Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

**III.**

On the basis of this Order and Respondent’s Offer, the Commission finds that:

## **Summary**

1. This matter involves LiveWire's failure to comply with Regulation A, which provides a limited exemption to the registration requirements of the Securities Act for certain public offerings. Specifically, after obtaining qualification to offer a specific number of shares within a price range pursuant to Regulation A, LiveWire improperly (i) increased the number of shares offered and (ii) changed its offering price, and thereafter offered and sold shares in an offering that was not exempt from registration pursuant to Regulation A. As a result, LiveWire offered and sold securities in violation of Sections 5(a) and 5(c) of the Securities Act.

## **Respondent**

2. LiveWire is a Nevada corporation with its principal place of business in Anaheim, California. Its common stock trades on OTC Link operated by OTC Markets Group Inc. LiveWire's business model focuses on real estate, marketing, and research and development within the cannabis industry.

## **Facts**

3. LiveWire offered shares of common stock to investors from August 28, 2020 through approximately June 30, 2021 (the "Offering"). It sold approximately 272 million shares between September 14, 2020 and June 2, 2021, raising a total of approximately \$1.65 million. LiveWire did not register the Offering with the Commission but instead sought to rely on the limited exemption from registration found in Regulation A.

4. In connection with the Offering, on April 29, 2020, LiveWire filed an offering statement on Form 1-A with the Commission. On July 30, 2020, LiveWire filed an amended offering statement on Form 1-A/A with the Commission, which the Commission qualified on August 28, 2020. Under the qualified offering statement, LiveWire proposed to sell up to 200 million shares of common stock at a price between \$0.01 and \$0.02, with a fixed price to be set by LiveWire before making any sales. LiveWire sold no shares between August 28, 2020 and September 8, 2020.

5. On September 8, 2020, LiveWire filed an offering circular supplement on Form 253G2 (the "September 8, 2020 Supplement"). The September 8, 2020 Supplement increased the number of securities offered from 200 million to 363.6 million and set the offering price at \$0.0055 per share. LiveWire did not file a new offering statement or post-qualification amendment to obtain qualification for this modified offering, which included an additional 163.6 million shares and set the offering price more than 20% below the qualified price range. Between September 8, 2020 and March 25, 2021, LiveWire offered and sold approximately 182.3 million shares and raised approximately \$1 million under the terms of the September 8, 2020 Supplement.

6. On March 25, 2021, LiveWire filed another offering circular supplement on Form 253G2 (the "March 25, 2021 Supplement"), which decreased the number of securities offered from 363.6 million to 275.8 million and changed the offering price by more than 30%, from \$0.0055 to

\$0.00725 per share. LiveWire did not file a new offering statement or post-qualification amendment to obtain qualification for this modified offering, which included an additional 75.8 million shares over the qualified offering amount. Between March 25, 2021 and June 2, 2021, LiveWire offered and sold approximately 89.7 million shares and raised approximately \$650,000 under the terms of the March 25, 2021 Supplement.

7. An issuer is not permitted to use an offering circular supplement to increase the number of securities offered under Regulation A. Additional securities may be offered only pursuant to a new offering statement or a post-qualification amendment qualified by the Commission. *See* Rules 252(e), 253(b) and Note to 17 C.F.R. § 230.253 (“An offering circular supplement may not be used to increase the volume of securities being offered. Additional securities may only be offered pursuant to a new offering statement or post-qualification amendment qualified by the Commission.”). Because LiveWire increased the number of securities offered by filing the September 8, 2020 and March 25, 2021 Supplements and did not file new offering statements or post-qualification amendments that were qualified by the Commission, it offered and sold securities in contravention of the requirement that qualification is a necessary component for Regulation A sales. *See* Rules 251(d)(1) and 251(d)(2). As a result, Regulation A did not apply to the offers and sales made after LiveWire’s filing of the September 8, 2020 and March 25, 2021 Supplements.

8. An issuer is not permitted to use an offering circular supplement to fundamentally change the information set forth in the offering statement. Instead, such changes require a new offering statement or a post-qualification amendment, each of which must be qualified by the Commission. *See* Rules 252(e) and 252(f)(2)(ii). A fundamental change may be present when an issuer changes the price of securities offered under Regulation A from the qualified offering price. Because the September 8, 2020 Supplement’s change to the offering price for LiveWire’s shares from the qualified offering price was a fundamental change to the information provided in the offering statement, a new offering statement or post-qualification amendment qualified by the Commission was required. Additionally, the March 25, 2021 Supplement’s change to the offering price for its shares was a fundamental change to the information provided in the September 8, 2020 Supplement. As LiveWire did not file either new offering statements or post-qualification amendments, filing the September 8, 2020 and March 25, 2021 Supplements instead, it offered and sold securities in contravention of the requirement that qualification is a necessary component for Regulation A sales. *See* Rules 251(d)(1) and 251(d)(2). As a result, Regulation A did not apply to the offers and sales made after LiveWire’s filing of the September 8, 2020 and March 25, 2021 Supplements.

### **Violations**

9. Section 5(a) of the Securities Act prohibits the use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell a security unless a registration statement is in effect as to such security. Section 5(c) of the Securities Act prohibits the use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy a security unless a registration statement has been filed as to such security.

10. LiveWire offered to sell and sold its securities without a registration statement filed or in effect and without a valid exemption from registration. As a result of the conduct described above, LiveWire violated Sections 5(a) and 5(c) of the Securities Act.

#### IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent LiveWire's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act, Respondent LiveWire cease and desist from committing or causing any violations and any future violations of Sections 5(a) and 5(c) of the Securities Act.

B. Respondent shall pay a civil money penalty in the amount of \$50,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Section 21F(g)(3) of the Securities Exchange Act of 1934 ("Exchange Act"). Payment shall be made in the following installments: the first \$12,500 within 90 days of the date of this Order, the second \$12,500 within 180 days of the Order, the third \$12,500 within 270 days of the Order, and the fourth \$12,500 plus all accrued interest, within 360 days of the Order. Payments shall be applied first to post-order interest, which accrues pursuant to 31 U.S.C. § 3717. Prior to making the final payment set forth herein, Respondent shall contact the staff of the Commission for the amount due. If Respondent fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341

6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying LiveWire as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Assistant Director Anne C. McKinley, Division of Enforcement, Chicago Regional Office, Securities and Exchange Commission, 175 W. Jackson Boulevard, Suite 1450, Chicago, IL 60604.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman  
Secretary